

FCC MAIL ROOM

FEB 20 1997

RECEIVED

DOCKET FILE COPY ORIGINAL

Instituto das
Comunicações de
Portugal

Conselho de Administração

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222,
Washington, D.C: 20554

S / referência

S / comunicação

N / referência

ICP-0281/97

Data

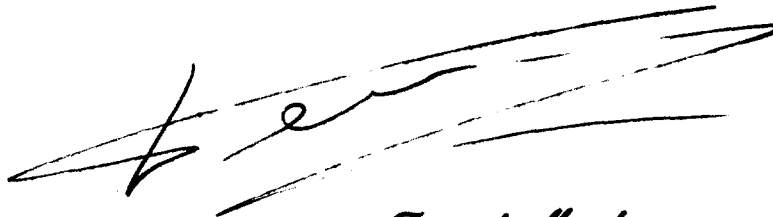
1997 FEB. 07

ASSUNTO: Comments to FCC Notice of Proposed Rulemaking

The Instituto das Comunicações de Portugal, representing the Portuguese Administration, would like to send you the comments to the Notice of Proposed Rulemaking - IB Docket N° 96-261.

We would be very grateful if you could send us a copy of the comments on the above mentioned Notice, sent to you by other interested parties.

Yours sincerely.



Fernando Mendes
Presidente do Conselho de Administração

No. of Copies rec'd
List ABCDE

024

FCC MAIL ROOM

FEB 20 1997

RECEIVED



**COMMENTS BY INSTITUTO DAS COMUNICAÇÕES DE PORTUGAL
TO THE FCC'S NOTICE OF PROPOSED RULEMAKING
(IB DOCKET No. 96-261)**

ICP agrees that the present accounting rate system should be reformed in order to meet the emerging regulatory and market changes.

ICP believes that **the new system of determining settlements between operators for international direct dialling traffic should follow the principles of cost-orientation, non-discrimination and transparency**, in consistency with the "ongoing effort made by the Commission, many foreign governments, and multilateral organisations such as the International telecommunication Union (ITU) and the Organisation for Economic Cooperation and Development (OECD)" (para.1, page 1).

1. Enforcement proposals

Concerning FCC's enforcement proposals to apply to US carriers, pointed out in para. 89, we would like to stress that ICP has doubts that the FCC can regulate the decisions concernig carriers operating outside the US territory, in the light of the International Telecommunications Regulations.

In fact, the Constitution and the Convention of the International Telecommunication Union point out that the provision of telecommunication services results from an agreement between the Administrations involved, and that **the Administrations shall by mutual agreement establish and revise accounting rates to be applied by them**. This regulations concern all Members of the Union.

ICP would like to stress that **the right place to discuss this and other issues related to the accounting rate system reform are the competent international fora, namely the ITU**.

We strongly support the point made on page 9 of the FCC document: "we propose to work with US carriers and other US government agencies to suggest measures the ITU could undertake to promote more rapid progress in achieving cost-based rates (...) We also will continue supporting the work of the OECD on settlement rate issues. Additionally, we will encourage regional organisations like APEC, Inter-American Telecommunications Commission and the European Union to consider ways to reform the international settlement rate system".

Therefore, ICP thinks that the FCC should present its case at the meetings that are taking place in the ITU to reform the present accounting rate system.

In the above paragraphs we outlined our position regarding FCC's proposals. From this point on, and notwithstanding what we have already said, we would like to comment also on some of the methodological issues.

2. Other methodological comments

2.1. Causes of the growing traffic imbalances between the US and foreign countries

The FCC document points out that "the size of the imbalance between US-outbound and inbound minutes has accelerated in recent years, as the chart in Appendix C demonstrates. To the extent that these settlement payments exceed the actual costs foreign carriers incur in terminating US-originated calls, they represent a significant subsidy to foreign carriers. Based on our estimate of the costs of international termination services, we estimate that at least three quarters of the \$5 billion outpayments is such a subsidy from US consumers, carriers and their shareholders to foreign carriers" (para. 8, page 5).

This is one of the arguments behind the FCC proposals to reform the present accounting rate system and to bring settlement rates down, in order to stop that "significant subsidy".

However, one of the main reasons for the growing traffic imbalance is the increasing incentives given to US carriers and resellers to engage in reverse traffic activities (ex: call back, home country direct, home country beyond and international free phone). In fact, the time period when the US deficit has increased is exactly the same as the time period when the settlement rates have decreased.

In this sense, to justify the "significant subsidy to foreign carriers" with the high settlement rates is arguable.

2.2. Cost orientation and non-discrimination

The FCC supports "the work done in international fora to reform the traditional settlement rate system and we propose to intensify our efforts to achieve multilateral consensus on measures to reform the settlement rate system to achieve cost-based, transparent and non-discriminatory charges for terminating international calls". (para. 17, page 9).

However, a truly non-discriminatory and cost-based system is one where each carrier decides one single rate, based on its own and actual costs, to charge to the carriers which want to terminate traffic in that country.

A system like this is being proposed by OECD, WTO and the European Commission and the system proposed by the FCC on this document is not consistent with that two principles.

As long as the 50/50 split of the accounting rate is maintained the system will not be non-discriminatory and cost-based.

Furthermore, if the FCC believes that the cost of terminating a call outside the US may be higher than the cost of terminating a call in the US (as pointed out in para.52, page 23: "We recognise that this estimate of the incremental cost of terminating international traffic is based on US data, and that the incremental cost of terminating international traffic in a foreign country may differ from this estimate"), then the FCC must agree that the US carrier should pay a higher rate than the rate received by the same US carrier.